

### **AMENDMENTS TO DRAWINGS**

Please cancel Figs. 1, 2 and 14.1-15.2 and replace these Figs. with attached replacement Figs. 1, 2 and 14.1-15.2.

### **REMARKS**

Claims 1-10 are currently pending in the application, as amended. Claim 1 has been amended to point out that a base member includes a back surface, a control rod extends generally perpendicularly from the back surface and a hole extends through the clamp member from a first side to a second side. Support for this amendment can be found in specification paragraphs 59 and 69 and in Figs. 5-8.1, 20 and 21. Claim 3 has been amended to replace the phrase, "an anti-loosening plastic" with the phrase, "a ring". Support for this amendment can be found in specification paragraphs 79, 81 and 85 and in Figs. 2, 8.1, 15.2, 20 and 21. In addition, claim 4 has been amended to replace the phrase, "base member (1)" with the phrase, "back surface". Support for this amendment can be found in originally filed claim 1, specification paragraphs 59 and 69 and Figs. 2, 8.1, 8.3, 12.1-12.3 13.2 and 14.1.

The drawings have been amended to replace Figs. 1, 2 and 14.1-15.2 with attached replacement Figs. 1, 2 and 14.1-15.2 to correct cross-hatching in Figs. 2, 14.1 and 14.2 of a tie-down ring 3. Support for this amendment can be found in originally filed Figs. 2, 14.1 and 14.2.

Based upon the above, no new matter has been added as a result of the amendments to the drawings and claims.

### **Information Disclosure Statement**

Applicants thank the Examiner for acknowledging the Supplemental Information Disclosure Statement filed June 22, 2004. However, Applicants respectfully submit that the Examiner has not acknowledged an Information Disclosure Statement (IDS), filed June 7, 2004. Enclosed is a copy of the June 7 IDS, wherein a typographical error is corrected by replacing previously listed U.S. Patent No. 6,203,099 with correct U.S. Patent No. 6,203,090. Applicants respectfully request that the Examiner review the documents listed on the attached June 7 IDS, initial the attached copy of Form PTO/SB/08A and return the initialed Form PTO/SB/08A with any response to this Amendment, acknowledging receipt and review of the documents.

### **DRAWINGS**

The Examiner objected to the drawings because of improper cross-hatching of item 3 in Figs. 2, 14.1 and 14.2. Originally filed Figs. 1, 2 and 14.1-15.2 have been replaced by

replacement drawing Figs. 1, 2 and 14.1-15.2 including proper cross-hatching of tie-down ring 3 in Figs. 2, 14.1 and 14.2. Based upon this amendment, Applicants respectfully request that the Examiner reconsider and withdraw the above-presented objection to Figs. 2, 14.1 and 14.2.

## **CLAIMS**

### **Claim Objections**

The Examiner objected to claim 3 because on line 2 it refers to “an anti-loosening plastic”. Applicants respectfully traverse this objection.

Claim 3 has been amended to replace the phrase, “an anti-loosing plastic” with the phrase, “a ring”. The anti-loosening plastic, ring or lock washer 6 preferably prevents a screw 9 from loosening from engagement with a clamp member 4 of the fastening assembly of the present application. Applicants respectfully request that the Examiner reconsider and withdraw any objection to claim 3 based upon this amendment to claim 3.

### **Claim Rejections – 35 USC § 103**

The Examiner rejected claims 1-5, 9 and 10 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,032,939 (Chen) in view of U.S. Patent No. 6,196,777 B1 (Price). The Examiner argues that Chen discloses each and every element of the above-listed claims except for a tie-down ring. The Examiner further argues that Price discloses the tie-down ring and it would have been obvious to one having ordinary skill in the art to modify the clamp device of Chen to have a tie-down ring based on Price. Applicants respectfully traverse this rejection with respect to amended claims 1-5, 9 and 10.

Referring to Figs. 1-5, Chen is directed to a clamp device 1 including a U-shaped body member 11 and a generally L-shaped body member 12 that is secured to the U-shaped body member 11 by a bolt 13. The U-shaped body member 11 includes a dovetail-shaped insertion block 113 that is slidably received into a guide groove 123 in the L-shaped body member 12 to properly align the L-shaped body member 12 with the U-shaped body member 11. The L-shaped body member 12 includes a through hole 122 and the U-shaped body member 11 includes a round opening 115 and a hexagonal hole 112 in a second leg 116. In an engaged position, the bolt 113 is inserted through the through hole 122 and the round opening 115 to engage a nut 114 that is inserted in the hexagonal opening 112. An outer surface of the nut 114 is engaged by the hexagonal opening 112 such that the bolt 113 may be

tightened, drawing opposing anti-skid pads 111, 121 of the U-shaped and L-shaped body members 11, 12 toward each other to clamp a cap 2 to a truck bed rail 3.

Referring to Figs. 1-5, Price is directed to a cargo anchor for a truck bed. The cargo anchor includes a clamping device 6 and a journal box 4 with a D-ring 58 mounted thereto. A stem of the D-ring 58 is rotatable relative to the clamping device 6 and journal box 4. A tie-down strap may engage the D-ring 58 in several orientations for supporting cargo in the truck bed.

Referring to Figs. 2, 3, 7-8.3, 13.1-15.2 and 19-21, the present application is directed to a fastening assembly for securing a bed liner 38 to a truck bed 39. The truck bed 39 has an inward extended bed rail 62 and the bed liner 38 includes at least one hole 42. The fastening assembly includes a base member 1 and a clamp member 4. In a clamping position, the base member 1 engages the clamp member 4 through the bed liner hole 42 such that a back surface of the base member 1 is urged toward the clamp member 4 to sandwich the bed liner wall 38 and bed rail 62 therebetween. The base member 1 includes an extended direction control rod 14 that extends generally perpendicularly from the back surface for insertion through the bed liner hole 42 in the clamping position. The clamp member 4 includes at least one hole 29 extending from a first side to a second side for insertion of the control rod 14 therein. The hole 29 can be moved along an extended direction of the control rod 14 when the clamp member 4 is assembled to the base member 1. The clamp member 4 may be inserted through the hole 42 in the bed liner wall 38 when the clamp member 4 is engaged with the base member 1 (Fig. 19). The fastening assembly also includes a tie-down ring 3 that is removably attached to the base member 1.

Amended claim 1 is directed to a fastening assembly for securing a bed liner to a truck bed and recites, *inter alia*, a base member (1) for engaging a clamp member (4) through the bed liner hole (42), the base member (1) including a back surface that is pressed by the clamp member with the bed liner wall and bed rail in between, the base member having at least one extended direction control rod (14) extending generally perpendicularly from the back surface for insertion through the bed liner hole (42); the clamp member (4) having at least one hole extending through the clamp member from a first side to a second side.

When making a rejection under 35 U.S.C. § 103, the Examiner has the burden of establishing a *prima facie* case of obviousness. The Examiner satisfies this burden only by showing 1) some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, 2) a reasonable expectation of success and 3) the prior art references must teach or

suggest all of the claim limitations (MPEP 706.02(j)). The teaching or suggestion to make the claimed combination and reasonable expectation of success must be found in the prior art and not from the Applicant's disclosure (MPEP 706.02(j)). Further, the mere fact that the prior art could be modified in the manner proposed by the Examiner, does not make the modification obvious unless the prior art suggests the desirability of the modification. Ex parte Dussaud, 7 U.S.P.Q. 2d 1818, 1820 (PTO Bd. App. & Int. 1988).

Applicants respectfully submit that a clamp mechanism comprised of the clamp of Chen modified in view of the anchor of Price would not include all of the claimed features of amended claim 1 of the present application. Specifically, the modified clamp of Chen in view of Price would not include a fastening assembly including a base member with a control rod extending generally perpendicularly from a back surface that presses a clamp member with a bed liner wall and bed rail therebetween. In addition, the combined device of Chen in view of Price would not include a hole extending through the clamp member from a first side to a second side into which the control rod is inserted. Specifically, the combined device of Chen in view of Price would, at best, include the dovetail-shaped insertion block that is slidably inserted into the guide groove, which is formed in a surface of the L-shaped body member but does not extend through the L-shaped body member. In addition, the dovetail-shaped insertion block 113, which must be considered the direction control rod of the present application, does not extend generally perpendicularly from a back surface of a base member that is pressed by a clamp member with a bed liner and bed rail therebetween. The surfaces of the clamp device of Chen that engage the truck bed rail are positioned on a plane that is generally parallel to the extension direction of the dovetail-shaped member of Chen and neither of these surfaces is located on a surface from which the dovetail-shaped member extends. The surface from which the dovetail-shaped member of Chen extends is in facing engagement with the L-shaped member when the clamp is engaged with the truck bed rail and will never be used to press with an opposing member a bed liner wall and bed rail in between as is claimed in amended claim 1.

Based upon the above, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of amended claim 1 based upon obviousness or Chen in view of Price.

Claims 2-5, 9 and 10 are dependent upon amended claim 1. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw any rejections of claims 2-5, 9 and 10 based at least upon their dependence upon amended claim 1 for the above-outlined reasons.

The Examiner rejected claims 6-8 under 35 U.S.C. § 103(a) as being unpatentable or Chen in view of Price and further in view of U.S. Patent No. 5,134,964 (Masters). The Examiner argues that Chen in view of Price discloses each and every element of currently pending claims 6-8 except for a supporting plate for attaching to the inner surface of the bed rail having a double-sided adhesive tape nor having spring clips capable of attaching the support plate to the inner surface of the bed rail. The Examiner further argues that Masters teaches these features and it would have been obvious to one having ordinary skill in the art to modify an assembly Chen in view of Price to have an adhesive and clip to secure a supporting plate as taught by Masters in order to provide a seal and ensure proper alignment between the plate and the bed rail prior to tightening the bolt. Applicants respectfully traverse this rejection.

Referring to Figs. 1-4, Masters is directed to a flexible security loop A for a kayak hull 12. The loop A is secured to the hull by enlargements 34, 36 on the ends of the loop A that engage a slot 30 of a bracket plate 14 and a nut and bolt 50, 52. A resilient gasket 38, which may be comprised of an adhesive, is mounted between the plate 14 and the hull 12 in an assembled condition.

Claims 6-8 are dependent upon amended claim 1. Applicants respectfully submit that the proposed combination of Chen in view of Price and further in view of Masters would not include each and every element of amended claim 1 of the present application. Specifically, Applicants respectfully submit that the addition of Masters to the combined device of Chen in view of Price does not result in a fastening assembly including a base member having a back surface that is pressed by a clamp member with a bed liner wall and bed rail in between, wherein a control rod extends generally perpendicularly from the back surface and a hole in the clamp member that extends through the clamp member from a first side to a second side receives the control rod. Masters does not include any of these features recited in amended claim 1 and one having ordinary skill in the art would not modify Chen in view of Price and further in view of Masters to include any of these features, as was also described above with respect to the previous rejection of Chen in view of Price.

Based upon the above, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of claims 6-8 based upon their dependence upon amended claim 1 for the above-outlined reasons.

### CONCLUSION

In view of the foregoing Amendment and remarks, Applicants respectfully submit that the present application, including amended claims 1-10, is in condition for allowance and such action is respectfully requested.

Respectfully submitted,

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(Date)

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Enclosure